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### Nominee for a Key Justice Department Post

By CHARLIE SAVAGE

President Obama on Wednesday nominated [Virginia A. Seitz](#), a law firm partner who specializes in appellate litigation to lead the Justice Department's powerful Office of Legal Counsel.

The nomination represents Mr. Obama's second attempt to get someone confirmed to lead the agency, which tells the executive branch whether proposed policies would be lawful. His last nominee, [Dawn Johnsen](#), a former Clinton administration lawyer, [withdrew](#) after her nomination had lingered for more than a year without a Senate vote.

In a statement, Mr. Obama described a group of executive branch nominees that included Ms. Seitz — whose nomination to the position of assistant attorney general for the office has been rumored for months — in glowing terms.

“The extraordinary dedication these men and women bring to their new roles will greatly serve the American people, he said. “I am grateful they have agreed to serve in this administration and I look forward to working with them in the months and years to come.”

Ms. Seitz is currently a partner at the law firm of Sidley Austin. Her work there has included being the counsel of record for a group of retired military officers who filed a friend-of-the-court brief in support of upholding affirmative action policies in a 2003 Supreme Court case, *Grutter v. Bollinger*.

She does not have a great deal of experience in national security legal policy matters — a factor that could both hurt and help her. Critics may attack her lack of relevant experience, since the Office of Legal Counsel has been deeply involved in setting limits — or sometimes secretly proclaiming a lack thereof — on what the executive branch wants to do to combat Al Qaeda.

On the other hand, critics are unlikely to find much of a paper trail laying out specific views on such matters as Bush administration interrogation policies and the balance between handling terrorists as wartime combatants or as criminals. Such issues have served as recurrent fodder for partisan controversy.

The Office of Legal Counsel wields extraordinary power. If a proposed policy would be illegal, it has the responsibility of telling the president that it cannot be done. But if it

signs off on a policy, then any official who takes an action based on its opinion is essentially safe from prosecution – even if the legal analysis invoked by the office is later repudiated.

Once obscure, the Office of Legal Counsel became notorious during the administration of President George W. Bush after its political appointees, citing expansive theories of executive power, issued secret memorandums approving surveillance and interrogation policies that bypassed statutory and treaty limits.

The controversy that surrounded the office after those memorandums came to light have made it difficult for presidents of both parties to get anyone confirmed to lead it. It has not had a Senate-confirmed assistant attorney general since 2004.

Ms. Seitz earned an undergraduate degree from Duke University, was a Rhodes Scholar, and graduated first in her class from Buffalo Law School. She also clerked for Harry T. Edwards, a former appeals court judge, and William J. Brennan, a former associate justice of the Supreme Court.